

MEETING  
STATE OF CALIFORNIA  
SECRETARY OF STATE  
VOTING SYSTEMS PANEL

SECRETARY OF STATE  
1500 11TH STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 3, 2003

1:00 P.M.

Reported by: Michael Mac Iver

Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

## APPEARANCES

## PANEL MEMBERS

Mr. Mark Kyle, Chairperson

Mr. Marc Carrel

Mr. John Mott-Smith

Ms. Caren Daniels-Meade

Mr. Bernard Soriano

## STAFF

Ms. Dawn Mehlhaff

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## PROCEEDINGS

CHAIRPERSON KYLE: Thank you for waiting. My name is Mark Kyle. And we have a number of people absent today. And we have a new appointment to the VSP panel. We have Tony Miller absent, and Chon Gutierrez absent today, and we have Terry Carbel who's recused herself from today's discussion because of a potential conflict that dates backwards in time to a previous employer. She normally sits up here. And we have one of -- is it one position or two? We have one, Tony filled one, and we've appointed Caren Daniels-Meade to the third position.

Panel members, if you would turn off your cell phones and pagers, I'd appreciate it.

If you would take a look, I'm just going to go through some procedural stuff and then ask for Marc Carrel to take over on the substantive items for me. Procedurally we dealt with Agenda Item Number 1 at the last meeting, so we're not doing that today. And Agenda Item Number 3, Certification Procedures, was to be a staff report at the last VSP meeting, we rolled it over to this meeting, and it's still not ready, so it will not be reported on today. Agenda Item 3 is stricken from the agenda, and I will look for any objections to that. And I'm going to suggest that we do not schedule it until we know that it can be something date certain. Any objections to that?

1 All right. And that leaves us with Agenda Item  
2 Number 2. So, Marc Carrel, I'm going to turn it over to  
3 you.

4 PANEL MEMBER CARREL: It has come to our attention  
5 that some very disconcerting information regarding this item  
6 and we were informed that this company, Diebold, may have  
7 installed uncertified software in at least one county before  
8 it was certified. Given this information, I would move that  
9 we do not take up this item today and we indefinitely table  
10 the item until the Secretary can complete an investigation  
11 about this.

12 PANEL MEMBER MOTT-SMITH: Second.

13 PANEL MEMBER CARREL: Second from John Mott-Smith.

14 All those in favor?

15 (Ayes.)

16 PANEL MEMBER CARREL: Any opposition?

17 As such we're not taking up Item Number 2 because  
18 of that information. And so we will now have public comment  
19 and I would call people to speak at the podium to comment on  
20 any items, if they still wish to comment.

21 Item Number 2 was Diebold, yes. We will not be  
22 taking any questions from the audience. Only those who are  
23 called to the podium will be recognized.

24 Sally McPherson, Registrar of Voters from the  
25 County of San Diego.

1 Pardon me?

2 Okay. Laura Winslow, Solano County ROV.

3 Okay.

4 Deborah Hensch, San Joaquin County Registrar.

5 Thomas Murdoch, member of the public.

6 MR. MURDOCH: Do I speak into the mike?

7 PANEL MEMBER CARREL: Just speak into the mike.

8 You have two minutes.

9 MR. MURDOCH: Our right to vote is the most  
10 precious right we have in the United States of America.  
11 This right should now be put before American citizens, if  
12 the manner in which we vote is to change. The documentation  
13 I have heard about Diebold is troubling. The information  
14 from former employees is that they had 200 security flaws in  
15 GEMS and other software. There have been numerous errors of  
16 whole numbers in casting votes for the correct choices a  
17 voter has made. Both errors apply to Sequoia and Diebold  
18 touch screens. For example, although a district has a  
19 hundred voters, yet when the numbers are tallied, a hundred  
20 and fifty votes are counted.

21 Problem testing machines is an easy one to solve.  
22 Having a paper trail, receipts like the one at an ATM should  
23 be given to the voter at the end of their selection. This  
24 will show the voter that the machine correctly recorded who  
25 and what they voted for. The machines themselves should

1 generate a paper trail. In the event of a recount due to a  
2 computer error, an audit of the system will be useless. The  
3 machine must generate a paper receipt for every vote casted.  
4 This will be the only accuracy issue needed for a hand  
5 recount.

6 I attended this meeting so I could represent my  
7 fellow Americans who could not attend. As an American  
8 citizen, I am part of this government. We the people have a  
9 right to be involved in the decisionmaking concerning our  
10 right to vote, making sure that the touch screen voting  
11 machines have a paper trail is not a request, it is a  
12 demand. Thank you.

13 PANEL MEMBER CARREL: Thank you. If you have  
14 anything written, you're more than welcome to submit it to  
15 the panel.

16 Next, Jim Martin. And we've received a letter in  
17 writing from Mr. Martin as well.

18 MR. MARTIN: Actually, the letter you just  
19 received is not related to Diebold. It's a different  
20 certification problem. I have, however, submitted two prior  
21 letters to your office dated October 16th, is the later one,  
22 and September 19th is the earlier one. And I hope those two  
23 letters are on file with your office.

24 My main concern at this point with Diebold is the  
25 lack of certification of Windows CE. I really hope that's

1 the piece of custom software that you guys are focusing on.  
2 And if it's not, it should be. Windows CE is loaded into  
3 firmware on both the TS and TSx terminals, and it is  
4 completely customized to the local hardware environment.  
5 That means Diebold wrote the maximum pieces of code to get  
6 that thing working with the touch screens. Numerous  
7 Microsoft internal documents detail that Windows CE is not a  
8 product so much as it is a kit. That means that thousands  
9 of lines of code were written by Diebold or whoever they  
10 hired to build the terminals, it hardly matters, the  
11 contractor, and was not submitted for certification with  
12 anyone.

13 In fact, according to the internal Diebold e-mails  
14 when three lower-level Diebold employees wanted to run  
15 Windows CE past lab certification, they were stomped on by  
16 the top technical person within Diebold Elections Systems  
17 named Hal Berdol. They wrote a memo late on Friday saying,  
18 yes, we ran Windows CE past the lab. Monday morning Hal  
19 Berdol got that message and said, no, we don't even mention  
20 Windows CE.

21 PANEL MEMBER CARREL: You have 30 seconds left.

22 MR. MARTIN: All right. If you're not looking at  
23 CE, you should be.

24 PANEL MEMBER CARREL: Thank you very much. I see  
25 this is also a Public Records Act request.



1 MR. MARTIN: Yes. That's something that just  
2 popped up yesterday.

3 PANEL MEMBER CARREL: Okay, we'll put this  
4 forward.

5 MR. MARTIN: By all means.

6 PANEL MEMBER CARREL: Thank you very much for  
7 submitting it.

8 The final person who submitted a card, if anyone  
9 else would like to make public comment, you can obtain a  
10 card at the front table, Kim Alexander.

11 MS. ALEXANDER: I'm back again. Is this on? Kim  
12 Alexander with the California Voter Foundation.

13 Since Item Number 2 has been tabled, some of the  
14 comments I was going to make, I won't. But I do want to  
15 recommend a procedure that this committee could follow in  
16 future meetings. Myself and a number of people who are  
17 trying to follow the voting technology issues and the  
18 certification process have been coming to these meetings and  
19 trying to understand the staff reports that are presented to  
20 the Voting Systems Panel when a voting system is tested and  
21 evaluated. And I would like to recommend that some element  
22 of those reports be made available to the public, that there  
23 be written staff reports posted on your website, so that in  
24 anticipation of these meetings, citizens who want to follow  
25 the process can read ahead of time what kinds of

1 modifications to voting systems will be taken up by the  
2 Voting Systems Panel and be able to comment intelligently on  
3 those changes. And that's my only comment. Thank you.

4 PANEL MEMBER CARREL: Thank you.

5 If there is no one else that has a wish or a  
6 desire to make a public comment, I would entertain a motion  
7 for adjournment.

8 PANEL MEMBER DANIELS-MEADE: So moved.

9 PANEL MEMBER CARREL: So moved by Member Daniels-  
10 Meade.

11 PANEL MEMBER MOTT-SMITH: Second.

12 PANEL MEMBER CARREL: Second by Mr. Mott-Smith.

13 All in favor.

14 (Ayes.)

15 PANEL MEMBER CARREL: The motion is approved.

16 Thank you very much.

17 (Thereupon the meeting of the Voting  
18 Systems Panel was concluded at 1:20 p.m.  
19 on November 3, 2003.)

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## 1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand Reporter, do  
3 hereby certify that I am a disinterested person herein; that  
4 I reported the foregoing Voting Systems Panel proceedings in  
5 shorthand writing; that I thereafter caused my shorthand  
6 writing to be transcribed into typewriting.

7 I further certify that I am not of counsel or  
8 attorney for any of the parties to said Voting Systems Panel  
9 proceedings, or in any way interested in the outcome of said  
10 Voting Systems Panel proceedings.

11 IN WITNESS WHEREOF, I have hereunto set my hand  
12 this 17th day of November 2003.

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18 Michael J. Mac Iver  
19 Shorthand Reporter  
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